## IN THE UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF INDIANA HAMMOND DIVISION

AMERICAN FAMILY MUTUAL	)
INSURANCE COMPANY,	)
Plaintiff,	)
v.	) No. 2:19 CV 468
ANTHONY WISE, ELIZABETH WISE and IAN GUECO,	) ) )
Defendants.	)

## **OPINION and ORDER**

This matter is before the court on plaintiff American Family Mutual Insurance Company's motions for default judgment against defendants Ian Gueco, Elizabeth Wise, and Anthony Wise. (DE ## 21-23.) Plaintiff's motions will be granted.

The court may enter default judgment against a party against whom affirmative relief is sought when that party fails to plead or otherwise defend. Fed. R. Civ. P. 55(b)(2). The decision to enter a default judgment lies within the discretion of the district court. *O'Brien v. R.J. O'Brien & Assocs., Inc.,* 998 F.2d 1394, 1398 (7th Cir. 1993). If the court determines that the defendant is in default, all well-pleaded allegations in the complaint, except those relating to the amount of damages, will be taken as true. *Black v. Lane,* 22 F.3d 1395, 1399 (7th Cir. 1994).

Plaintiff filed its Complaint for Declaratory Judgment on December 6, 2019.

(DE # 1.) Plaintiff's complaint seeks declaratory relief related to its obligations to provide coverage for an automobile accident ("The Incident") that occurred between

the defendants, and which is the subject of an underlying state court action ("The Lawsuit").

Summonses returned executed by plaintiff indicate that Ian Gueco was served on January 30, 2020 (DE # 16), and Elizabeth and Anthony Wise were served on January 9, 2020. (DE ## 14-15.) Therefore, Ian Gueco had until February 20, 2020, to file a responsive pleading, and Elizabeth and Anthony Wise had until January 30, 2020, to file a responsive pleading. *See* Fed. R. Civ. P. 12(a)(1)(A)(I) (requiring defendant to serve answer within 21 days after being served with summons and complaint). To date, defendants have not filed any responsive pleading or appeared in this case. At plaintiff's request, the Clerk of Court entered default against defendants on March 16, 2020. (DE # 20.) Plaintiff now seeks entry of default judgment against each of these defendants. (DE ## 21-23.) Defendants have not responded.

The court now finds that plaintiff American Family Mutual Insurance Company is entitled to default judgment against all defendants in this case.

For the foregoing reasons, the court:

- 1. **GRANTS** plaintiff American Family Mutual Insurance Company's motion for default judgment against defendants Ian Gueco (DE # 23), Elizabeth Wise, (DE # 22), and Anthony Wise (DE # 21);
- 2. **FINDS** that the American Family Mutual Insurance Company policy of insurance identified in the Complaint for Declaratory Judgment does not cover Anthony Wise for any claims arising out of The Incident and/or The Lawsuit as alleged and described in the Complaint for Declaratory Judgment;

USDC IN/ND case 2:19-cv-00468-JTM-JPK document 24 filed 05/22/20 page 3 of 3

3. **FINDS** that American Family Mutual Insurance Company has no

obligation to defend or indemnify Anthony Wise against any claims arising out of The

Incident and/or The Lawsuit as alleged and described in the Complaint for Declaratory

Judgment;

4. **FINDS** that American Family Mutual Insurance Company has no

obligation to compromise or settle any claim arising out of The Incident and/or The

Lawsuit as alleged and described in the Complaint for Declaratory Judgment;

5. **FINDS** that American Family Mutual Insurance Company has no

obligation to pay or satisfy, in whole or in part, any judgment that may be rendered

against Anthony Wise in any action brought against him arising out of The Incident

and/or The Lawsuit as alleged and described in the Complaint for Declaratory Judgment;

6. **FINDS** that the American Family Mutual Insurance Company policy of

insurance identified in the Complaint for Declaratory Judgment does not cover Elizabeth

Wise for any uninsured motor vehicle claims arising out of The Incident and/or The

Lawsuit as alleged and described in the Complaint for Declaratory Judgment.

7. **DIRECTS** the Clerk of Court to enter final judgment in favor of plaintiff

American Family Mutual Insurance Company, and against defendants, Ian Gueco,

Elizabeth Wise, and Anthony Wise.

SO ORDERED.

Date: May 22, 2020

s/James T. Moody

JUDGE JAMES T. MOODY

UNITED STATES DISTRICT COURT